

1 TERRY GODDARD  
Attorney General  
2 (Firm State Bar No. 14000)

3 ELIZABETH A. CAMPBELL  
Assistant Attorney General  
4 State Bar No. 018311  
1275 W. Washington, CIV/LES  
5 Phoenix, Arizona 85007-2997  
Tel: (602) 542-7979  
6 Fax: (602) 364-3202

7 Attorneys for the Arizona State Board of Pharmacy

8  
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **P. SEAN DUFFY**

12 Holder of License No. S011511  
As a Pharmacist  
13 In the State of Arizona

Board Case No. 09-0007-PHR

**CONSENT AGREEMENT  
FOR CIVIL PENALTY**

14  
15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the  
17 public interest, statutory requirements and the responsibilities of the Arizona State Board  
18 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, P. Sean Duffy ("Respondent"),  
19 holder of Pharmacist License Number S011511 in the State of Arizona, and the Board  
20 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order  
21 ("Consent Agreement") as a final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement and has had  
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the  
24 opportunity to discuss this Consent Agreement with an attorney.  
25  
26

1           2.     Respondent understands that he has a right to a public administrative  
2 hearing concerning the above-captioned matter, at which hearing he could present  
3 evidence and cross examine witnesses. By entering into this Consent Agreement,  
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative  
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or  
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7           3.     Respondent affirmatively agrees that this Consent Agreement shall be  
8 irrevocable.

9           4.     Respondent understands that this Consent Agreement or any part of the  
10 agreement may be considered in any future disciplinary action by the Board against him.

11          5.     Respondent understands this Consent Agreement deals with Board  
12 Complaint No. 3577 involving allegations of unprofessional conduct against Respondent.  
13 The investigation into these allegations against Respondent shall be concluded upon the  
14 Board's adoption of this Consent Agreement.

15          6.     Respondent understands that this Consent Agreement does not constitute a  
16 dismissal or resolution of any other matters currently pending before the Board, if any,  
17 and does not constitute any waiver, express or implied, of the Board's statutory authority  
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19          7.     Respondent also understands that acceptance of this Consent Agreement  
20 does not preclude any other agency, subdivision, or officer of this State from instituting  
21 any other civil or criminal proceedings with respect to the conduct that is the subject of  
22 this Consent Agreement.

23          8.     Respondent acknowledges and agrees that, upon signing this Consent  
24 Agreement and returning this document to the Board's Executive Director, he may not  
25 revoke his acceptance of the Consent Agreement or make any modifications to the  
26

document regardless of whether the Consent Agreement has been signed by the Executive Director. Any modification to this original document is ineffective and void unless mutually agreed by the parties in writing.

9. Respondent understands that the Consent Agreement shall not become effective unless and until adopted by the Board and signed by its Executive Director.

10. If a court of competent jurisdiction rules that any part of this Consent Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full force and effect.

11. Respondent understands and agrees that if the Board does not adopt this Consent Agreement, he will not assert as a defense that the Board's consideration of this Consent Agreement constitutes bias, prejudice, prejudgment or other similar defenses.

12. Respondent understands that this Consent Agreement is a public record that may be publicly disseminated as a formal action of the Board and may be reported as required by law to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

13. Respondent understands that any violation of this Consent Agreement constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-1901.01(B)(20), -1927(A)(1).

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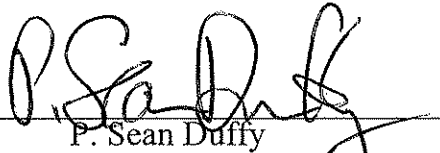
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1 ACCEPTED AND AGREED BY RESPONDENT

2   
3 P. Sean Duffy

Dated: 11/3/08

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona  
5 this 3<sup>rd</sup> day of November, 2008, by P. Sean Duffy.



7   
8 NOTARY PUBLIC

9 My Commission expires: 01/31/2012

10 **FINDINGS OF FACT**

- 11 1. The Board is the duly constituted authority for licensing and regulating the  
12 practice of pharmacy in the State of Arizona.
- 13 2. Respondent is the holder of license number S011511 to practice as a  
14 pharmacist in the State of Arizona.
- 15 3. Respondent's license expired on October 31, 2007.
- 16 4. Respondent did not renew his license until August 27, 2008.
- 17 5. During the time Respondent's license was expired, Respondent worked as a  
18 pharmacist in Arizona.  
19

20 **CONCLUSIONS OF LAW**

- 21 1. The Board possesses jurisdiction over the subject matter and over  
22 Respondent pursuant to A.R.S. § 32-1901 *et seq.*
- 23 2. The Board may discipline a pharmacist who has engaged in unprofessional  
24 conduct. A.R.S. § 32-1927(A)(1).  
25  
26

1           3.     The conduct and circumstances described above constitutes unprofessional  
2 conduct pursuant to A.R.S. § 32-1901.01(B)(19) (Violating or attempting to violate,  
3 directly or indirectly, or assisting in or abetting in the violation of, or conspiring to  
4 violate the Board's statutes and rules).

5           4.     The conduct and circumstances described above constitute a violation of  
6 A.R.S. § 32-1961(A) (It is unlawful for any person to manufacture, compound, sell or  
7 dispense any drugs or to dispense or compound the prescription orders of a medical  
8 practitioner, unless he is a pharmacist).

9           5.     The conduct and circumstances described above constitute a violation of  
10 Arizona Administrative Code R4-23-201(A) (Before practicing as a pharmacist in  
11 Arizona, a person shall possess a valid pharmacist license issued by the Board).

12                                 **ORDER**

13           Based upon the above Findings of Fact and Conclusions of Law, IT IS HEREBY  
14 ORDERED THAT:

15           1.     Respondent shall pay a civil penalty of \$500.00 within sixty (60) days of  
16 the effective date of this Order.

17                                 18<sup>th</sup>  
18 DATED this            day of November, 2008.

19  
20   ARIZONA STATE BOARD OF PHARMACY

21 (Seal)

22  
23 By:



HAL WAND, R.Ph.  
Executive Director

1 ORIGINAL OF THE FORGOING FILED  
this 18 day of November, 2008, with:

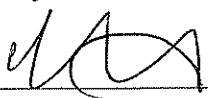
2 Arizona State Board of Pharmacy  
3 1700 West Washington, Suite 250  
Phoenix, Arizona 85007

4 EXECUTED COPY OF THE FOREGOING MAILED  
5 BY CERTIFIED MAIL  
this 18 day of November, 2008, to:

6 P. Sean Duffy  
7 2552 E. Lantana Drive  
Chandler, Arizona 85226  
8 Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED  
this 18 day of November, 2008, to:

10 Elizabeth A. Campbell  
11 Assistant Attorney General  
12 1275 W. Washington Street, CIV/LES  
Phoenix, Arizona 85007  
Attorneys for the State of Arizona

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14 \_\_\_\_\_  
#313622